

HB0139S02 compared with HB0139S01

~~text~~ shows text that was in HB0139S01 but was deleted in HB0139S02.

text shows text that was not in HB0139S01 but was inserted into HB0139S02.

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Representative Jordan D. Teuscher proposes the following substitute bill:

TRAFFIC VIOLATION AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates a deferred prosecution program for ~~a person~~an individual charged with a traffic infraction.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a deferred prosecution program to allow ~~a person~~an individual to apply for deferred prosecution of a traffic infraction;
- ▶ describes the application requirements for deferred prosecution;
- ▶ allows ~~a person~~an individual who applies for deferred prosecution to not have judgment of conviction entered against the ~~person~~individual if the ~~person~~individual is not convicted of another traffic violation in the 12 months

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following the application for deferred prosecution;

- ▶ requires the court to enter a judgment of conviction if the ~~person~~individual fails to comply with the terms of the deferred prosecution; and
- ▶ provides for an administrative fee to cover the costs of the deferred prosecution program.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

77-2-4.2, as last amended by Laws of Utah 2008, Chapters 3, 339, and 382

78A-7-301, as last amended by Laws of Utah 2014, Chapter 189

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-2-4.2** is amended to read:

77-2-4.2. Compromise of traffic charges -- Deferred prosecution of traffic infractions -- Limitations.

(1) As used in this section:

(a) "Compromise" means referral of ~~a person~~an individual charged with a traffic violation to traffic school or other school, class, or remedial or rehabilitative program.

(b) "Deferral period" means the 12-month period following the date on which ~~a person~~an individual submits an application for deferred prosecution.

(c) "Deferred prosecution" means the deferral of prosecution of ~~a person~~an individual charged with a traffic infraction if the ~~person~~individual complies with the requirements described in Subsection (5).

(d) "Felony traffic violation" means a violation of Title 41, Chapter 6a, Traffic Code ~~or a local traffic ordinance~~, amounting to a felony.

(e) "Moving traffic infraction" means a traffic infraction that occurs when a vehicle is in motion on a highway.

(f) (i) "Traffic infraction" means a violation of Title 41, Chapter 6a, Traffic Code, or a

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local traffic ordinance that is an infraction.

(ii) "Traffic infraction" does not include an offense that is a misdemeanor or a felony.

~~(b)~~ (g) "Traffic violation" means any charge for which ~~[bail may be forfeited]~~ a fine may be voluntarily remitted in lieu of appearance, by citation or information, of a violation of:

(i) Title 41, Chapter 6a, Traffic Code, amounting to:

(A) a class B misdemeanor;

(B) a class C misdemeanor; or

(C) an infraction; or

(ii) any local traffic ordinance.

(2) Any compromise of a traffic violation shall be done pursuant to a plea in abeyance agreement as provided in Title 77, Chapter 2a, Pleas in Abeyance, and Subsection (3), except:

(a) when the criminal prosecution is dismissed pursuant to Section 77-2-4; ~~[or]~~

(b) when there is a plea by the defendant to and entry of a judgment by a court for the offense originally charged or for an amended charge~~[-]; or~~

(c) when there is a deferred plea of no contest as provided in Subsection (5).

(3) In all cases which are compromised pursuant to ~~[the provisions of Subsection (2)]~~ a plea in abeyance:

(a) the court, taking into consideration the offense charged, shall collect a plea in abeyance fee which shall:

(i) be subject to the same surcharge as if imposed on a criminal fine;

(ii) be allocated subject to the surcharge as if paid as a criminal fine under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation; and

(iii) be not more than \$25 greater than the ~~[bail]~~ fine designated in the Uniform ~~[Bail]~~ Fine Schedule; or

(b) if no plea in abeyance fee is collected, a surcharge on the fee charged for the traffic school or other school, class, or rehabilitative program shall be collected, which surcharge shall:

(i) be computed, assessed, collected, and remitted in the same manner as if the traffic school fee and surcharge had been imposed as a criminal fine and surcharge; and

(ii) be subject to the financial requirements contained in Title 51, Chapter 9, Part 4,

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Criminal Conviction Surcharge Allocation.

(4) If a written plea in abeyance agreement is provided, or the defendant requests a written accounting, an itemized statement of all amounts assessed by the court shall be provided, including:

- (a) the Uniform ~~[Bait]~~ Fine Schedule amount;
- (b) the amount of any surcharges being assessed; and
- (c) the amount of the plea in abeyance fee.

(5) (a) (i) Except as provided in Subsection (5)(b), ~~fa person charged with~~an individual who receives a citation for a moving traffic infraction may apply for deferred prosecution.

(ii) A court may not require an individual to appear in-person to apply for a deferred prosecution in accordance with this Subsection (5).

(b) The following may not apply for or be granted a deferred prosecution as described in this section:

- (i) ~~fa person~~an individual under 21 years old;
- (ii) ~~fa person~~an individual with a commercial driver license;
- (iii) an individual who has not been issued a current Utah driver license;
- ~~(iii)~~iv) fa personan individual who has ~~committed~~been convicted of a felony

traffic violation, traffic violation, or traffic infraction within the 24 months immediately preceding the date of the application for deferred prosecution;

(~~iv~~)v) fa personan individual charged with two or more moving traffic infractions related to the same episode or occurrence;

(~~v~~)vi) fa personan individual charged with multiple traffic infractions related to the same episode or occurrence if any of the offenses is a misdemeanor or felony traffic violation;

(~~vi~~)vii) fa personan individual charged with one or more traffic infractions if none of the traffic infractions are moving traffic violations;

(~~vii~~)viii) any traffic infraction or traffic violation that is part of an episode or occurrence involving a traffic accident;~~or~~

(~~viii~~)ix) a moving traffic violation that is for speeding 30 miles per hour or more above the posted speed limit;

(x) a moving violation that is for speeding at a speed of 100 miles per hour or more; or

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(xi) an individual who is currently within a deferral period related to a separate episode or occurrence.

(c) ~~{A person}~~ An individual who applies for deferred prosecution shall:

~~{ (i) (A) apply with the relevant court clerk on a form provided by the court; or~~

~~{ (B) i) apply through an online application process developed by the Administrative Office of the Courts;~~

(ii) pay the relevant fine, as provided by the uniform fine schedule described in 76-3-301.5, associated with each traffic infraction for which the ~~{person}~~ individual was charged;

(iii) pay an administrative fee ~~{to the court}~~ as established by the judicial council; and

(iv) enter a deferred plea of no contest as described in Subsection (5)~~(d)~~

~~(d)e).~~

(d) An individual who receives a traffic citation shall:

(i) comply with Section 77-7-19; or

(ii) apply for deferred prosecution as described in Subsection (5)(c) no sooner than five and no later than 21 days after receiving the citation.

(e) If an eligible ~~{person}~~ individual applies for deferred prosecution, the court shall:

(i) record the deferred plea of no contest;

(ii) not enter the deferred plea of no contest unless the ~~{person}~~ individual fails to comply with the terms of the deferred prosecution; and

(iii) if the ~~{person}~~ individual fails to comply with the terms of the deferred prosecution, enter a judgment of conviction as described in Subsection (5)~~(e)f~~(ii).

~~(e)f~~ (i) Except as provided in Subsection (5)~~(e)f~~(ii), if ~~{a person applies for deferred prosecution and the person}~~ an individual enters a deferred plea of no contest as described in Subsection (5)(c)(iv) and is not convicted of another traffic violation, felony traffic violation, or traffic infraction during the deferral period:

(A) the prosecutor may not prosecute the ~~{person}~~ individual for the traffic infraction subject to the deferred prosecution;

(B) the court may not enter judgment of conviction against the ~~{person}~~ individual or impose a sentence for the traffic infraction; and

(C) the court shall dismiss ~~{the charge for the}~~ each traffic infraction to which the

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individual entered a deferred plea of no contest.

(ii) If ~~{a person that has applied for deferred prosecution}~~an individual enters a deferred plea of no contest as described in Subsection (5)(c)(iv) and is convicted of another a traffic violation within the deferral period, the court shall enter judgment of conviction against the ~~{person}~~individual for~~;~~

~~—— (A) the~~ each traffic infraction ~~{for}~~to which the ~~{deferred prosecution was applied;~~
and

~~—— (B) the traffic violation that occurred during the deferral period.~~

~~—— (f) Each court shall provide an application process, including an online application process, as developed by the Administrative Office of the Courts, for a person to apply for deferred prosecution}~~individual entered a deferred plea of no contest.

(g) (i) A prosecutor may not amend a charge from an infraction to a misdemeanor:

(A) if the infraction offense has the same elements as the misdemeanor offense; or

(B) for the sole purpose of prohibiting ~~{a person}~~an individual from applying for deferred prosecution.

(ii) A deferred prosecution is not a prosecution for purposes of Section 76-1-403.

~~{ —— (h) An individual applying for deferred prosecution in accordance with this section may not be required to appear in-person in order to apply for deferred prosecution.~~

~~{ (f)(h)}~~ (i) The judicial council shall set and periodically adjust the fee described in Subsection (5)(c)(iii) in an amount that the judicial council determines to be necessary to cover the cost to implement, operate, and maintain the deferred prosecution program described in this Subsection (5).

(ii) The state treasurer shall deposit the revenue generated from the administrative fee described in Subsection (5)(c)(iii)~~{ shall be deposited}~~ into the Justice Court Technology, Security, and Training Account created in Section 78A-7-301.

Section 2. Section 78A-7-301 is amended to read:

78A-7-301. Justice Court Technology, Security, and Training Account established -- Funding -- Uses.

There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

(1) ~~{}~~ The state treasurer shall deposit in the account ~~{}~~ The account shall be funded

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by:

~~— (a) deposits from the state treasurer from};~~

(a) money collected from the surcharge established in Subsection 78A-7-122(4)(b)(iii)[:]; and

(b) ~~{ deposits from the courts from}~~ the administrative fee from a deferred prosecution under Subsection 77-2-4.2(5).

(2) Money shall be appropriated from the account to the Administrative Office of the Courts to be used for:

(a) audit, technology, security, and training needs in justice courts throughout the state[:]; or

(b) costs to implement, operate, and maintain deferred prosecution pursuant to Subsection 77-2-4.2(5).

Section 3. **Effective date.**

This bill takes effect on October 1, 2022.